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BEFORE THE ARIZONA CORPORATION COMMISSION
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Arizona Corporation Commission
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IN THE MATTER OF THE
APPLICATION OF WICKENBURG
RANCH WATER, LLC, AN ARIZONA
LIMITED LIABILITY COMPANY, FOR A
RATE ADJUSTMENT

Docket No. W-03994A-07-0657

**RESPONSE TO STAFF'S MOTION
TO EXTEND TIME TO FILE STAFF
REPORT**

Wickenburg Ranch Water, LLC ("Company"), hereby responds to Arizona Corporation Commission Staff's Motion to Extend Time to File Staff Report to correct Staff's erroneous assertion that "there is insufficient water in the area for the purposes outlined in the application."

On July 7, 2008, ACC Utilities Division Staff filed its Motion to Extend Time to File Staff Report ("Motion") requesting permission to file the Staff Report on or before July 21, 2007. Prior to filing the Motion, ACC Staff asked the Company to agree to an extension and the Company granted this request. However, ACC Staff did not tell the Company that it was going to make the substantive argument in the Motion that there is insufficient water available to meet projected demands.

1 Making such a substantive argument in the Motion is out of place. Moreover, the
2 fact that the Motion fails to mention that Staff did not explain its position to the
3 Company, but avows that the Company did not object to request for more time, wrongly
4 implies that the Company, at a minimum, consented to the issue being raised. The
5 Company strongly disagrees, and as explained below, the Company can show that Staff's
6 argument is demonstratively wrong.

7 In the application, the Company estimates that it will need 522 acre-feet of
8 groundwater to meet its water demand in the fifth year of build out.¹ In the original
9 application, the Company provided documentation from the Arizona Department of
10 Water Resources ("ADWR") demonstrating 1,224 acre-feet of groundwater is available
11 for the Company to meet development water demands.

12 Since the application was filed, the Company has met all of the requirements to
13 become a designated water provider for up to 1,224 acre-feet of water demand. See
14 Exhibit 1, Decision and Order, at p. 3. This means, according to ADWR, the Company
15 "has demonstrated that 1,224 acre-feet per year of groundwater will be physically
16 available, continuously available and legally available for at least 100 years." *Id.* The
17 Company's projected demand of 552 acre-feet set forth in the application is well within
18 the Company's 1,224 acre-foot designation "water budget". Clearly, the Company has
19 sufficient water supplies to meet its demand set forth in the application.²

20 Put another way, ADWR agrees that the current, committed, and projected water
21 demand for within the Company's CC&N is 1,224 acre-feet per year. Accordingly, as a
22 designated water provider, the Company can serve each development or development
23

24
25 ¹ See Application, page 9. The calculation is as follows: 162,779,233 gallons of residential demand +
26 7,330,000 gallons of commercial demand = 170,109,233 gallons of total demand. 170,109,233 gallons =
522.05 acre-feet.

27 ² ADWR encourages water providers to become designated water providers and asserts this program is a
28 "major contribution to the State's water management goal." See Exhibit 1 cover letter. ADWR has taken
this view because setting a designation "water budget" encourages both the water company and developer
to institute water conservation practices during each development phase so that the water budget is never
exceeded.

1 phase within its service area as long as the water demand does not exceed 1,224 acre-feet
2 per year.

3 Apparently, Staff is perplexed by statements regarding the “projected water
4 demand of 1,400.84 acre-feet” at full-build out of the project. This additional 176.84
5 acre-feet of “demand” reflects how the landowners plan to dispose of effluent by
6 watering landscape, turf, and evaporation from retention ponds, as opposed to letting it
7 trickle into a dry streambed. ADWR encourages such effluent use and wants landowners
8 to describe how effluent will be used once it is generated by a development, which is then
9 considered a demand.

10 The effluent demand, however, will not be a demand on the Company’s water
11 resources. Although it will be used within the project, the effluent will be owned by a
12 wastewater provider, and therefore, it is not part of the Company’s designation.³
13 Moreover, as the Company pointed out in its earlier response to Staff’s data request, there
14 will be approximately 247 acre-feet of effluent produced. So there is plenty of effluent to
15 meet the additional demand of 176.84 acre-feet.

16 In conclusion, it is important to keep in mind that the purpose of this application is
17 to set Company rates and charges that have not been adjusted for 36 years. The
18 Company has a CC&N and is obligated to serve water to the landowners within its
19 service area. Unlike a vast majority of water companies in Arizona, it has established
20 through ADWR that it has enough water available to serve its current, committed, and
21 projected customers by becoming a designated water provider. Accordingly, Staff’s
22 characterization that the Company’s water resources are insufficient to meet the water
23 demands is simply wrong.

24
25 ////

26
27 ////

28

3 Sometime in the future, the Company may secure effluent by contract with the wastewater provider and have that additional water resource added to the designation water budget.

1 DATED this 14th day of July, 2008.

2 MOYES SELLERS & SIMS, LTD.

3
4 

5 Steve Wene
6 1850 North Central Avenue, Suite 1100
7 Phoenix, AZ 80004
8 (602) 604-2189

9 **Original and thirteen** copies mailed
10 this 14th day of July, 2008, with:

11 Docket Control
12 Arizona Corporation Commission
13 1200 West Washington
14 Phoenix, Arizona 85007

15 Copy mailed this 14th day of
16 July, 2008 to:

17 Kevin O. Torrey
18 Attorney, Legal Division
19 Arizona Corporation Commission
20 1200 W. Washington St.
21 Phoenix, AZ 85007

22 

EXHIBIT 1

ARIZONA DEPARTMENT OF WATER RESOURCES

Office of Assured and Adequate Water Supply

3550 North Central Ave., 2nd Floor, Phoenix, Arizona 85012

Telephone 602 771-8585

Fax 602 771-8689



Janet Napolitano
Governor

Herbert R. Guenther
Director

February 11, 2008

CDC Wickenburg Water, LLC
Jason Rowley, Esq.
1550 E. Missouri Ave. Ste. 300
Phoenix, AZ 85014

Re: Designation of Adequate Water Supply (DWR No. 40-700417.0000) CDC Wickenburg Water, LLC

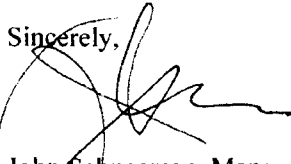
Dear Mr. Rowley:

I am pleased to inform you that the Department of Water Resources has approved the application for a Designation of Adequate Water Supply for CDC Wickenburg Water. We have enclosed the formal Decision and Order. The Decision and Order includes an itemization of CDC Wickenburg Water's responsibilities in maintaining the Designation.

CDC Wickenburg Water's status as a designated water provider demonstrates that CDC Wickenburg Water is taking a long-term perspective in managing water resources. CDC Wickenburg Water's commitment to long term planning represents a major contribution to the State's water management goal.

If you have any questions regarding these documents, please contact me at (602) 771-8585.

Sincerely,



John Schneeman, Manager
Office of Assured & Adequate Water Supply

JS/rbo

cc: Mr. Roy Tanney, Arizona Department of Real Estate
Steve Corell, Clear Creek Associates

1 DEPARTMENT OF WATER RESOURCES

2 BEFORE THE DIRECTOR

3 IN THE MATTER OF THE APPLICATION OF) AWS No. 2007-009
4 CDC WICKENBURG WATER, LLC)
5 FOR A DESIGNATION AS HAVING AN) DECISION AND ORDER
ADEQUATE WATER SUPPLY)
6 _____) No. 40-700417.0000

7 I. INTRODUCTION

8 On September 25, 2007, the Department of Water Resources (Department) received an
9 application from CDC Wickenburg Water, LLC (CDC Water) requesting that the Department designate
10 CDC Water as having an adequate water supply pursuant to A.R.S. § 45-108 and A.A.C. R12-15-714.

11 After receiving CDC Water's application for a designation of adequate water supply, the
12 Department reviewed relevant information regarding the designation request, including: 1) the hydrologic
13 information on file with the Department for the proposed source of groundwater supply; and 2) information
14 regarding CDC Water's financial capability to construct the necessary delivery system, treatment works
15 and storage facilities. Based on that information, the Department makes the following Findings of Fact,
16 Conclusions of Law, and Order of Designation and Conditions of Designation:

17 II. FINDINGS OF FACT

18 A. General

- 19 1. CDC Water is a private water company, subject to the jurisdiction of the Arizona Corporation
20 Commission (ACC).
21 2. CDC Water provides water service within the territorial boundaries of its certificate of
22 convenience and necessity (CC&N), as approved by the ACC.
23 3. CDC Water currently serves water through its distribution system to its customers.
24
25

B. Water Demands

4. CDC Water's current demand as of calendar year 2006 is 278.44 acre-feet per year (current demand).
5. CDC Water's committed demand as of calendar year 2006 is 0.00 acre-feet per year (committed demand).
6. CDC Water's projected demand in 2013, the sixth calendar year from the date of application, is 945.54 acre-feet (2013 projected demand). The 2013 projected demand does not include the current demand or the committed demand, but does include the annual demand at build-out of plats reasonably projected to be approved and customers reasonably projected to be added through calendar year 2013.
7. CDC Water's annual estimated water demand in 2013, which is the sum of its current demand, committed demand, and 2013 projected demand, is 1224.00 acre-feet per year.

C. Groundwater: Physical, Continuous and Legal Availability

8. CDC Water has the right to withdraw and deliver groundwater to its customers pursuant to A.R.S. § 45-453.
9. Historic hydrologic information demonstrates that depth-to-static water levels within the CDC Water service area currently average 425 feet below land surface.
10. CDC Water has demonstrated that after withdrawing 1224.00 acre-feet per year of groundwater for 100 years, the depth-to-static water level within CDC Water's service area is not expected to exceed 1200 feet below land surface.
11. CDC Water has demonstrated that it has wells of sufficient capacity to satisfy its annual estimated groundwater demand of 1224.00 acre-feet per year for at least 100 years.

D. Water Quality

12. CDC Water will be regulated by the Arizona Department of Environmental Quality as a public water system pursuant to A.R.S. §§ 49-351, et seq.

1 **E. Financial Capability**

- 2 13. On June 29, 2007, a "Water Facilities Extension Agreement" (Agreement) was executed between
3 CDC Water and JVT Investors, LLC, an Arizona limited liability company (JVT). The Agreement
4 states that JVT shall fund construction of water system improvements including: distribution lines,
5 wells, storage tanks, and booster stations to support water service by CDC Water in the existing
6 CC&N. Upon completion of construction, said improvements shall become the sole property of
7 CDC Water.
8 14. CDC Water has demonstrated capability for financing the construction of adequate delivery,
9 storage, production and treatment works through the Agreement.

10 **III. CONCLUSIONS OF LAW**

11 Having reviewed the Findings of Fact, the Department makes the following Conclusions of Law:

- 12 1. CDC Water has demonstrated that 1224.00 acre-feet per year of groundwater will be physically
13 available, continuously available and legally available for at least 100 years, which is sufficient to
14 meet its annual estimated water demand in 2013, of 1224.00 acre-feet per year. See A.A.C.
15 R12-15-716, R12-15-717 and R12-15-718.
16 2. The water supply served by CDC Water will be of adequate quality pursuant to A.A.C. R12-15-
17 719.
18 3. CDC Water has satisfied the financial capability criteria prescribed in A.A.C. R12-15-720.
19 4. CDC Water has satisfied all the requirements for a designation of an adequate water supply.

20 **IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION**

21 Having reviewed the Findings of Fact and Conclusions of Law, the Director hereby issues this
22 Decision and Order designating CDC Water as having an adequate water supply, subject to the following
23 conditions:

- 24 1. The Director reserves the right under A.A.C. R12-15-715(C) to periodically review and modify the
25 designation for good cause as conditions warrant.

- 1 2. Pursuant to A.A.C. R12-15-715, the Director may revoke this designation at any time if the
2 findings of fact or the conclusions of law upon which the designation is based change or are
3 invalid, or if an adequate water supply no longer exists.
- 4 3. The Director's determination that an adequate water supply exists for CDC Water is based on its
5 review of the water supply pledged by CDC Water.
- 6 4. CDC Water shall submit an application to modify this decision and order designating CDC Water
7 as having an adequate water supply to increase the term of the designation when the sum of
8 CDC Water's current demand, committed demand and two-year projected demand exceeds
9 1224.00 acre-feet, or by January 1, 2012, whichever is earlier.
- 10 5. Pursuant to A.A.C. R12-15-719, CDC Water shall satisfy any state water quality requirements
11 established for its proposed use after the date of this designation.
- 12 6. CDC Water shall annually provide to the Department the following information in the manner
13 prescribed in A.A.C. R12-15-715:
 - 14 a. The projected demand at build-out for customers with which CDC Water has entered
15 into a notice of intent to serve agreement in the calendar year.
 - 16 b. An estimate of the demand of platted, undeveloped lots located in CDC Water's service
17 area.
 - 18 c. A report regarding CDC Water's compliance with water quality requirements.
 - 19 d. The depth-to-static water level of all wells from which CDC Water withdrew water during
20 the calendar year.
 - 21 e. The total quantity of water from any source, withdrawn, diverted, or received by CDC
22 Water for its customers' residential and non-residential use during the previous calendar
23 year.
- 24
- 25

1 f. Any other information requested by the Director to determine whether CDC Water is
2 continuing to meet all the requirements necessary to maintain this designation of
3 adequate water supply.
4

5 IT IS HEREBY ORDERED THAT CDC WICKENBURG WATER, LLC BE DESIGNATED AS
6 HAVING AN ADEQUATE WATER SUPPLY UNTIL DECEMBER 31, 2013.

7 DATED this 11th day of FEBRUARY, 2008.

8
9 
10 Herbert R. Glenther
Director
Arizona Department of Water Resources

11 A copy of the foregoing
12 **Decision and Order** mailed
13 by certified mail this
11th day of February, 2008,
14 to the following:

15 Certified Mail No. 7006 2760 0002 4885 0230

16 Sent by: R. Obenshain
Rick Obenshain

17 CDC Wickenburg Water, LLC
18 c/o Jason C. Rowley, Esq.
1550 E. Missouri, Suite 300
Phoenix, AZ 85014

19 First class mail copies to:

20 Mr. Roy Tanney
Director of Real Estate Subdivisions
21 Arizona Department of Real Estate
2910 N. 44th Street
22 Phoenix, Arizona 85018

23 Steven W. Corell
Clear Creek Associates
24 6155 E. Indian School Rd.
Suite 200
25 Scottsdale, Arizona 85251